Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of Presubscribed Interexchange Carrier Charges	CC Docket No. 02-53

REPLY COMMENTS OF VERIZON

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June 25, 2004

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I. INTRODUCTION AND SUMMARY

The comments filed in this proceeding support retention of the current PIC change charge. The $5.00 safe harbor is just and reasonable and consistent with robust long distance competition. Indeed, based on the evidence, the charge may be too low due to inflation and the increase in costs related to PIC changes. If the Commission does not retain the current safe harbor, it must allow each carrier to establish a charge that recovers all relevant costs, including the costs of slamming investigations and PIC freezes. Finally, given the widespread support for the current rate structure, the Commission should not require a bifurcated PIC change charge.

II. THE COMMISSION SHOULD RETAIN THE $5.00 SAFE HARBOR.

The current $5.00 safe harbor is reasonable and should be retained. As Verizon showed,[1] and as further discussed in section III, Verizon's actual costs demonstrate that the $5.00 charge is just and reasonable. Many commenters agreed that the benchmark has continuing validity in light of the complex processes that are involved in

[1] Comments of Verizon, CC Docket No. 02-53 at Attachment B (June 15, 2004).

implementing PIC change orders and the increase in costs associated with PIC changes. ***See*** NECA, 3-4; SBC 6-8; CBT 2-3, Sprint, 2. Indeed, the charge may be too low. ***See*** NECA, 3-4.

Many costs, such as labor, healthcare, and regulatory costs have increased substantially since 1984. ***See*** SBC, 7, NECA, 3. The percent of manual changes also has increased, which further increases costs. ***See*** Verizon, 6. The cost of manual processing, in many cases, is above the safe harbor. ***See, e.g.***, NECA, 3. Indeed, it has been difficult for local exchange carriers ("LECs") to keep their average costs within the safe harbor, and Verizon's costs in the East are well above it. ***See*** SBC, 7; Verizon Cost Study (Att. B to Verizon's Comments) at Exhibit Verizon East PIC Cost, Workpaper 1.1. As NECA notes, at $5.00, the safe harbor is some 40% lower than it would have been if the safe harbor had been adjusted for inflation ($8.27). ***See*** NECA, 4. Thus, assertions that the charge must be too high because it has not changed in 20 years are unfounded. ***See*** NASUCA, 2, ACUTA, 2.

Moreover, given the absence of any reason to believe the $5.00 charge over-recovers PIC change costs, concerns expressed by AT&T and MCI about competitive effects of the current safe harbor are groundless. ***See*** AT&T, 2, 8; MCI, 1. In many areas, the number of PIC changes has continued to rise. ***See*** SBC, 7. At the same time, competition in the long distance market is increasingly robust. ***Id***. Thus, the $5.00 charge has neither adversely affected competition nor impaired customer choice.

III. IF THE COMMISSION DOES NOT RETAIN THE SAFE HARBOR, IT MUST PERMIT EACH CARRIER TO ESTABLISH A CHARGE THAT RECOVERS ALL RELEVANT COSTS.

The Commission cannot establish a new nationwide safe harbor based on BellSouth's costs, contrary to MCI's request. MCI, 2. As many commenters noted, carriers face different costs depending on a number of factors including size, labor rates, overhead costs, and the percentage of manual changes processed. ***See*** SBC 4-6; CBT, 5; NECA, 3; Sprint, 2. Even AT&T recognizes that there is no basis for assuming that BellSouth's costs can be used as a proxy for those of other LECs. ***See*** AT&T, 4. Given these differences, in the event the Commission decides to revisit the safe harbor, which it should not, each carrier must be allowed to establish its own costs.[2] Moreover, those costs must include the expenses associated with PIC freezes and slamming investigations, as well as the direct costs (and a share of common costs and overhead) associated with the PIC change itself.

A. <u>PIC Change Charges Must Recover the Costs of PIC Freezes.</u>

The PIC change charge must recover PIC freeze costs. As Sprint observes, the PIC freeze option is a "fundamental component of the PIC-change charge process," which enables consumers to "combat unauthorized changes" to their preferred carrier. Sprint, 4. ACUTA similarly recognizes that PIC freezes are "an essential consumer protection tool which helps control intentional or unintentional slamming." ACUTA, 3. And, the Commission itself has emphasized the "value of the preferred carrier freezes as an anti-slamming tool" and "consumer protection device."[3] Given these benefits, the Commission should not discourage PIC freezes by mandating a separate charge.

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[2] Moreover, as explained in Verizon's Comments, if the Commission establishes a new safe harbor below five dollars, or if a particular price cap ILEC's cost study produces a PIC charge below five dollars, the affected price cap ILECs must be able to make an exogenous cost adjustment to recover the resulting revenue shortfall.

[3] *Implementation of the Subscriber Carrier Selection Change Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers*, 14 FCC Rcd 1508, ¶ 136 (1998).

Moreover, as Sprint notes, requiring a separate charge would "add unnecessarily to the complexity of the rate structure and the customer's bill," would "create more confusion for customers," and would "ignore the additional administrative burden of separately tracking the costs of each activity." Sprint, 3. Contrary to MCI's claim that a separate charge would make consumer bills more transparent, MCI, 8, such treatment would be seen as an unnecessary charge for activity that should already be included in the PIC change charge.

Nor is there any merit to MCI's suggestion that the Commission's precedent and rules require exclusion of PIC freeze costs. ***See*** MCI, 7-8. Indeed, the precedent quoted by MCI on its face does not stand for the cited proposition. In particular, the 2002 PIC Change Charge NPRM states only that, "If commenters argue that the additional costs of conducting a PIC change for a customer subscribing to a PIC-freeze service should be recovered through the PIC change, we seek comment on how to allocate the additional costs among jurisdictions." ***See id.*** (citing *Presubscribed Interexchange Carrier Charges*, 17 FCC Rcd 5568, ¶ 17 (2002)). At most, this shows that the Commission may not yet have determined the proper treatment of PIC freeze costs — contrary to MCI's contention, it most certainly does not indicate that PIC freeze costs are excluded from the PIC change charge. And, Section 64.1190(d)(1)(iii) of the Commission's rules has nothing to do with the costs underlying the PIC change charge; it states simply that "All carrier-provided solicitation and other materials regarding carrier-freezes much include … [a]n explanation of any charges associated with the preferred carrier freeze."

Likewise, MCI's contention that a separate charge would prevent unauthorized freezes is without merit because consumers already are protected against unwanted freezes. ***See*** MCI, 8. Faced with concerns that "many consumers are unclear about whether preferred carrier freezes are being placed on their carrier selections," the Commission adopted comprehensive rules to improve consumer awareness and "to ensure that carriers obtain the requisite authority from each customer before implementing a preferred carrier freeze."[4] The Commission expressed confidence that these rules were sufficient to enable consumers to know "whether or not there is a preferred carrier freeze in place on their carrier selection."[5]

Finally, AT&T is wrong in arguing that a separate PIC freeze charge would properly assess costs on the cost causer. ***See*** AT&T, 8. Although superficially attractive, AT&T's claim fails to recognize that the "cost causer" in the PIC freeze setting really is the interexchange carriers ("IXCs") which, intentionally or not, have engaged in slamming and therefore necessitated the freeze either as a remedy or as a prophylactic measure. And, even if end users properly were considered the cost causers, public policy compels the Commission not to "add insult to injury" by forcing them to bear the costs of protecting their right to select the IXC of their choice. AT&T also is wrong in suggesting that LECs use PIC change charges, such as PIC freezes, anticompetitively. ***See id.*** Not only has AT&T failed to provide any basis for this claim, but it is facially untenable.

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[4] *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996*, 14 FCC Rcd 12230 ¶ 3 (1999). Under these rules, "carriers must verify a customer's request for a preferred carrier freeze by either: (1) obtaining the subscriber's written authorization; (2) utilizing an independent third party to verify the subscriber's oral authorization to submit the preferred carrier freeze; or (3) obtaining the subscriber's electronic authorization by having the subscriber call a toll-free number from the telephone number on which the preferred carrier freeze is to be imposed." *Id*. (citing 47 C.F.R. Sec. 64.1190(d)(2)).

[5] *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996*, 14 FCC Rcd 1508 ¶ 133 (1998).

LECs are newcomers to the long distance market and thus have an interest in enabling customers to switch carriers as readily as possible consistent with legal requirements.

B. <u>The PIC Charge Must Recover the Costs of Slamming Investigations.</u>

The PIC change charge also must recover costs of slamming investigations.[6] These costs are incurred as a direct result of correcting an unauthorized PIC change and thus cannot be divorced from PIC-change costs. ***See*** SBC, 2. When a customer is slammed, the local exchange carrier has to change the customer's PIC back to its authorized carrier. These costs should be recovered as part of the general PIC change charge, not as a separate assessment on the slammed consumer because the customer did not cause the slam and should not bear the cost of resolving the complaint.

C. <u>AT&T's and MCI's Attacks on the Size and Scope of PIC Costs Are Unfounded.</u>

AT&T and MCI speculate that LECs may be double recovering the PIC change charge through the Customer Account Records Exchange ("CARE") system, and that certain PIC related costs are overstated. These claims are false.

<u>CARE Charges</u>. AT&T contends that costs recouped through the PIC change charge "may" also be recovered through CARE charges assessed on IXCs under contract, supposedly resulting in double recovery. AT&T, 5. This is not correct. The CARE activities to process a PIC change and confirm to both the gaining and losing carrier are not charged to the carrier community.

The billable CARE codes for which Verizon does charge involve additional processes, database queries, and programming beyond those required for the basic PIC

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[6] As Verizon showed, the PIC change charge also must recover shared and common costs. Even MCI acknowledges that such costs should be included to the extent they reflect the cost of processing PIC changes. MCI, at 5.

change process. These CARE codes provided to IXCs under contract or tariff — for example, provision of the Billing Name and Address associated with particular ANIs, and dial tone connect codes — are available to customers as a value-added service at their discretion. While these codes use some of the same systems as PIC changes, the purpose of these activities and the work effort associated with such activities (and thus the costs involved) are not included in Verizon's study of the costs of a basic PIC change.

Work Time. MCI speculates that the work time in BellSouth's PIC change cost study (over 3.5 minutes) includes marketing activities and therefore is excessive. MCI, 4. To the contrary, BellSouth's experience is confirmed by Verizon's cost study, which reveals that service representatives require four minutes, on average, to process manual PIC changes. ***See*** Verizon Cost Study (Att. B to Verizon's Comments) at Exhibit Verizon East PIC Cost, Workpaper 1.1, line 1. The time involved does not represent marketing — rather, it includes such activities as obtaining the customer's consent to view the account, ensuring that the customer understands the difference between long distance and regional toll, accessing an online system to read from a scrambled list of carriers if the end user is undecided, responding to the customer's questions, verifying that the line is PIC-eligible, determining which of the customer's lines are to be changed, checking whether the line has a PIC freeze in effect, reviewing the data required to complete the posting of the service order, preparing and translating records into service order format, troubleshooting to resolve service order roadblocks, and entering the order into the ordering system.

Third Party Verification. MCI also errs in asserting that third party verification (TPV) costs associated with verification of PIC changes should be excluded from PIC costs, which MCI states is performed by the submitting interexchange carrier, not by the executing local exchange carrier. MCI, 3. Verizon includes these costs only where it implements a PIC freeze, as required by the Commission's rules. ***See*** Verizon Cost Study (Att. B to Verizon's Comments) at Exhibit Verizon East PIC Freeze Cost, Workpaper 1.1, line 6. For example, about 11 percent of the PIC changes in Verizon East involve a PIC freeze request, and it is only these requests for which the TPV costs are incurred. ***See id.***, Workpaper 1.2, line 3. As noted above, all PIC freeze costs should be included in the PIC change charge.

Overhead Loading. MCI erroneously suggests that the safe harbor for manual processing should "exclude computer system costs associated with PIC freeze or marketing or other unrelated functions, as well as any claimed system costs that do not accurately reflect the cost of processing PIC changes." MCI, 5. Verizon already has demonstrated that system costs associated with PIC freezes are properly included in the cost of PIC changes. Moreover, general computer system costs are part of overhead, and thus a portion of those costs is properly included in determining the cost of PIC changes. And, other costs included in general overhead routinely are allocated to access services, a category which plainly includes PIC changes.[7] (Contrary to MCI's implication, these costs do not include the marketing of long distance services. The "Customer Operations Marketing" costs in Workpaper 9.2 of Verizon's cost study are the costs related to regulated access services, and therefore are applicable to PIC change charges, which are part of Verizon's exchange access services.) Finally, as Sprint notes, the Commission

[7] Thus, Verizon's cost study properly includes an allocation of costs related to customer operations marketing, corporate operations, depreciation/amortization, support plant, and total in service plant. ***See*** Verizon Cost Study (Att. B to Verizon's Comments) at Exhibit Verizon East PIC Cost, Workpaper 9.2.

historically has permitted carriers to include both shared and common costs in the overhead factor and thus to recoup both types of costs from the PIC change charge. Sprint, 4.

IV. THE COMMISSION SHOULD NOT MANDATE A BIFURCATED PIC CHANGE CHARGE.

As Verizon explained, a bifurcated PIC change charge would not accomplish the objectives suggested in the Notice and, instead, would cause customer confusion and increase administrative costs. The vast majority of commenters — including all end user commenters — agree. ***See*** ACUTA 2 (noting that "a two-tiered system would be overly complex and confusing for consumers."); ***see also*** CBT 3, SBC 7-8, Sprint 2. SBC notes that "a two-charge approach necessarily would require extensive consumer education," lead to higher costs for consumers, and prompt a significant increase in cramming complaints. SBC, 7-8. NASUCA adds that "having different PIC-change charges for manual vs. electronic processing makes little sense" because it would create "incentives for ILECs to eliminate, or for consumers to avoid [anti-slamming measures]." NASUCA, 4.

Only AT&T and MCI advocate a bifurcated charge, but with little support. MCI merely asserts that a bifurcated charge would be "more reasonable" without any explanation. MCI, 2. AT&T suggests that the charge must be bifurcated because the higher manual costs primarily are due to the fact that carriers must take additional steps to implement PIC freeze orders and thus consumers who avail themselves of that option should bear the costs. ***See*** AT&T, 6-7. However, as noted above, PIC freezes support the integrity of the entire PIC change process, and thus the charge must be included within the general PIC change charge. Given the widespread support for the current rate structure, the Commission therefore should not mandate a bifurcated PIC change charge.

V. <u>OTHER PROPOSED RULE CHANGES SHOULD BE REJECTED AS UNWARRANTED.</u>

Many commenters also proposed or discussed possible changes to the current rules. None of these proposed changes merits implementation.

First, there is no justification for changing the long-standing requirement that end users pay the PIC change charge. The market has demonstrated that assessing the charge on end users does not impede competition, and many IXCs voluntarily have decided to absorb these costs in any event. Consequently, there is no compelling reason to alter current practice. Moreover, assessing the charge on IXCs would not provide an incentive for IXCs to automate their PIC change processes because, as MCI points out, virtually all major IXCs already have implemented automated PIC change systems. MCI, 9.

Second, the Commission should reject ACUTA's renewed request that the Commission assess PIC change charges on the number of trunks Centrex customers utilize, rather than the number of Centrex lines. ***See*** ACUTA, 2. Because the PIC change charge is a safe harbor for a cost-based charge for making each change — not a subsidy — there is no basis for exempting some customers from paying the same charge as other customers.

VI. **CONCLUSION**

Based on the foregoing, the Commission should retain the $5.00 safe harbor for PIC change charges.

Respectfully submitted,

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June 25, 2004